

APPENDIX**STATE OF NORTH CAROLINA STATUTORY PROVISIONS****Selected Provisions of North Carolina Statutes Relating to
Examination of Parties**

§ 1-568.10. PRELIMINARY PROCEDURE FOR EXAMINATION BEFORE EXAMINING PARTY'S INITIAL PLEADINGS HAS BEEN FILED.—(a) Before a party has filed his complaint, petition or answer, he may, without notice to other parties, apply to the clerk or judge for an order for the examination of any person who may be examined by him as provided by G.S. 1-568.4.

(b) The application must be in the form of, or supported by, an affidavit showing:

- (1) That the action has been commenced and the purpose thereof;
- (2) That, in order to prepare his complaint, petition or answer, it is necessary for the applicant to secure information from the person proposed to be examined about certain matters, which matters must be designated with reasonable particularity;
- (3) That the information sought is not otherwise available to the applicant, together with a statement of the reasons therefor;
- (4) That, if the person proposed to be examined is not a party, the action is being prosecuted or defended in his behalf, together with facts in support thereof;
- (5) That the application is made in good faith; and
- (6) That the examination should be held at a place designated in the affidavit, together with facts showing the reasons therefor.

(c) If the judge or clerk finds that the facts are as set out in the affidavit, he shall make an order:

- (1) Appointing a commissioner to hold the examination;
- (2) Fixing the time and place of the examination, subject to the provisions of G.S. 1-568.5;
- (3) Directing the person to be examined to appear before the commissioner at such time and place for examination; and
- (4) Designating the particular matters about which the person may be examined;

§ 1-568.11. PRELIMINARY PROCEDURE FOR EXAMINATION AFTER INITIAL PLEADINGS HAVE BEEN FILED.—(a) After a party has filed his complaint, petition or answer, he may, without notice to other parties, apply to the clerk or judge for an order for the examination of any person who has also filed his complaint, petition or answer, as the case may be, or on whose behalf a complaint, petition or answer has been filed as provided by G.S. 1-568.4.

(b) The application must be in the form of, or supported by, an affidavit showing:

- (1) That the action has been commenced;
- (2) That the applicant has filed complaint, petition or answer;
- (3) That the applicant desires to examine a designated person who has filed a petition, complaint or answer or on whose behalf a petition, complaint or answer has been filed;
- (4) That the examination should be held at a place designated in the affidavit, together with facts showing the reasons therefor.

(c) If the judge or clerk finds that the facts are as set out in the affidavit, he shall make an order:

- (1) Appointing a commissioner to hold the examination;
- (2) Fixing the time and place of examination, subject to the provisions of G.S. 1-568.5; and
- (3) Directing the person to be examined to appear before the commissioner at such time and place for examination.